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FILED IN DISTRICT COURT  
OKLAHOMA COUNTY

IN THE DISTRICT COURT OF OKLAHOMA COUNTY  
STATE OF OKLAHOMA

HAYES FAMILY TRUST, on Behalf of )  
Itself and All Others Similarly Situated, )  
CLAYTON A. HAYES, CHRISTOPHER D. )  
HAYES, HOLLY D. ISCH, Individually and )  
as Co-Trustees of the HAYES FAMILY TRUST )  
Plaintiffs,  
v.  
STATE FARM FIRE AND CASUALTY )  
COMPANY,  
Defendant.

JAN 13 2014  
TRIA RHODES  
CLERK  
30

Case No.

CJ - 2014-211

JURY TRIAL DEMANDED  
ATTORNEY'S LIEN CLAIMED

VERIFIED PETITION

COMES NOW, the Plaintiffs, by and through their attorney of record, Jason Waddell, hereby, alleges and states as follows:

1. Plaintiff's property at issue is located in Oklahoma County, Oklahoma.
2. At all times pertinent hereto, Plaintiff's property was insured by State Farm Fire and Casualty Company (hereinafter: State Farm).
3. State Farm, is a foreign corporation licensed in the State of Oklahoma to conduct insurance business, sell, handle, oversee and, in pertinent part, administer matters concerning insurance coverage, of the like alleged hereafter in this case.
4. Plaintiff insured its building (hereinafter: property), located at 6101 NW 2nd St., Oklahoma City, Oklahoma 73127, with the Defendant via a Business Owner's policy in November of 2011. (Attached as Exhibit "A")
5. By issuing its Business Owner's policy to Plaintiff, Defendant promised Plaintiff it would act in good faith on any claims made by it under the policy.

6. On or about May 31, 2013, Plaintiffs property and roof were damaged as a result of a covered cause or loss.
7. The above reference policy was in full force and effect at the time of the damage.
8. The policy provides coverage for damage to Plaintiffs property resulting from wind, hail and water damage.
9. It is believed that strong wind and hail struck the Plaintiff's roof causing significant damage to the roof and property.
10. Despite the Business Owner's policy being in full force and effect, Defendant has not made a good faith attempt to settle the loss.
11. Despite insuring Plaintiff's property, Defendant refuses to fully pay for the damage to Plaintiff's roof and property.
12. Plaintiff sought coverage for the damage to the roof and property, but Defendant would only pay for minimal repairs.
13. When Plaintiff again sought coverage for the damaged roof and property, Defendant retained an Engineer to inspect the property.
14. Despite Plaintiffs request for resolution of the original claim, Defendant refused to replace Plaintiff's roof and damaged property.
15. Plaintiff's property has been further damaged since the original loss.
16. Plaintiff's policy provides for an Appraisal if there is a disagreement on the value of the property or amount of loss.
17. Plaintiff inquired about the Appraisal clause in the policy and the claims adjuster knowingly misrepresented to the Plaintiff that he didn't have a right to appraisal.

18. Plaintiff demanded the contractual appraisal process by letter dated November 25, 2013 sent by certified mail. (Attached as Exhibit "B").
19. Defendant received the letter via certified mail on December 2, 2013. (Attached as Exhibit "C").
20. Defendant has failed to appoint an appraiser within twenty days of receipt of the demand, as the contract and statutory language require.
21. Defendant has ignored Plaintiff's written request for appraisal and has refused to respond to such demand.
22. Defendants' failing to respond to Plaintiff's demand for appraisal is a breach of the contract between Plaintiff and Defendant.
23. Defendant's denial of Plaintiff's request to invoke the appraisal clause is an act of bad faith.
24. Defendant's lack of response to Plaintiff's reasonable contractual request for the Appraisal process is an act of bad faith.
25. Plaintiff is entitled to have the claim adjusted in a prompt and reasonable manner, but Defendant has not performed its duty to reasonably evaluate the loss.
26. In the time Plaintiff has waited for Defendant to properly cover and adjust the damage to Plaintiff's roof and property, Defendant has failed to abide by their contractual obligations.
27. Defendant's actions were done in bad faith as Plaintiff had a contractual right to have Defendant provide coverage for a covered loss such as the one sustained to Plaintiff's roof and property.
28. Defendant has unreasonably delayed the decision to provide coverage for Plaintiff's loss.

29. Defendant unreasonably undervalued the coverage for the loss when there was damage to Plaintiff's roof and property as a result of a covered loss.
30. Defendant unreasonably denied coverage for the loss when there was damage to Plaintiff's roof and property as a result of a covered loss.
31. Defendant unreasonably delayed the decision to provide coverage for Plaintiffs loss.
32. Defendant's decision to seek the opinion of a licensed professional engineer, months after the loss occurred, is an admission by Defendant that it never properly adjusted Plaintiffs loss.
33. Defendant's initial investigation of Plaintiff's claim was negligent.
34. Defendant failed to properly adjust the claim based on the findings of the licensed professional engineer.
35. Defendant's negligent investigation of Plaintiff's claim was done in bad faith.
36. Defendant's failure to properly adjust the claim based on the findings of the engineer is an act of bad faith.
37. At the time of loss the Property was listed for availability as a leased property.
38. Since the date of loss and resulting damage, Plaintiff has been unable to lease the property.
39. Plaintiff has been unable to show the property to potential tenants based on the condition of the property.
40. Plaintiff has turned down multiple attempts by his agent/broker to show the property.
41. Plaintiff continues to pay the mortgage and insurance payments on the non-leaseable property.

42. Plaintiff has suffered lost rent profits based on Defendants failure to adequately repair the damage to Plaintiff's property.
43. Plaintiff has been damaged by Defendant's breach of the insurance policy and its bad faith, and requests actual damages in excess of \$75,000.
44. Defendant's actions were oppressive, intentional, deliberate, willful, and malicious, showing a reckless disregard of the rights of its insured. As a result, Plaintiff is entitled to punitive damages without any monetary limitations as set forth in 23 O.S. § 9.1.
45. As a consequence of Defendant's acts and conduct, the Plaintiff has been damaged and suffered losses of consequential damages in excess of \$10,000.00.

WHEREFORE, Plaintiff requests actual damages in excess of \$75,000; punitive damages in an amount to be determined by the jury in excess of \$75,000, consequential damages in excess of \$10,000, attorneys fees, costs and all other relief to which Plaintiff is entitled.

Respectfully Submitted,



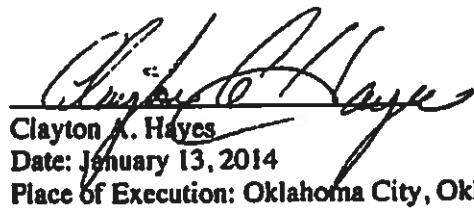
Jason Waddell OBA #30761  
Jason Waddell, PLLC  
222 NW 13th St.  
Oklahoma City, OK 73103  
Telephone: 405-232-5291  
Facsimile: 405-708-7871  
Jason@JasonWaddellLaw.com  
Attorney for Plaintiff

**JURY TRIAL DEMANDED  
ATTORNEY'S LIEN CLAIMED**

VERIFICATION

Clayton A. Hayes, of lawful age, states:

That he is the named Plaintiff in the above-styled case. He has read the above and foregoing Verified Petition and is familiar with the matters therein, and under penalty of perjury under the laws of the State of Oklahoma that the foregoing is true and correct to the best of my knowledge.

  
\_\_\_\_\_  
Clayton A. Hayes

Date: January 13, 2014

Place of Execution: Oklahoma City, Oklahoma

**State Farm**  
**STATE FARM FIRE AND CASUALTY COMPANY**  
**A STOCK COMPANY WITH HOME OFFICES IN BLOOMINGTON, ILLINOIS**  
**12222 State Farm Boulevard**  
**Tulsa, OK 74146-6402**

**DECLARATIONS COVERAGE SUMMARY JUL 10 2013**

<b>Policy Number</b>	<b>96-BM-K570-0</b>	
<b>Policy Period</b>	<b>Effective Date</b>	<b>Expiration Date</b>
12 Months	NOV 28 2012	NOV 28 2013
The policy period begins and ends at 12:01 am standard time at the premises location.		
Time Out of Force from FEB 24 2013 to FEB 28 2013		

1501 3123

**S-26-1675-FC08 F U****Named Insured**

HAYES, CLAYTON A II &  
 CHAD A & CHRISTOPHER D &  
 ISCH, HOLLY D, TRUSTEES OF  
 THE HAYES FAMILY TRUST  
 6101 NW 2ND ST  
 OKLAHOMA CITY OK 73127-6505

**Agent and Mailing Address**

DUANE CORY  
 3925 N COLLEGE AV.  
 BETHANY OK 73008-3343

PHONE: (405) 789-5811  
 (405) 789-5817

**Businessowners Policy**

**Automatic Renewal** - If the policy period is shown as 12 months, this policy will be renewed automatically subject to the premiums, rules and forms in effect for each succeeding policy period. If this policy is terminated, we will give you and the Mortgagee/Lienholder written notice in compliance with the policy provisions or as required by law.

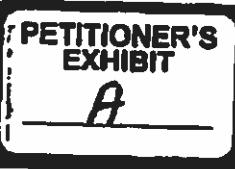
**Entity: Corporation****Requested By:** Policyholder

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**Policy Premium** \$ 4,387.00

**Discounts Applied:**  
 Years in Business  
 Protective Devices  
 Claim Record

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Prepared  
 JUL 10 2013  
 CMP-4000

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**Continued on Reverse Side of Page****Page 1 of 6**

139-481-2 03 31-2011 (0422734)

**DECLARATIONS (CONTINUED)**

**Businessowners Policy for HAYES, CLAYTON A II &**  
**Policy Number 96-BM-K570-0**

**SECTION I - PROPERTY SCHEDULE**

Location Number	Location of Described Premises	Limit of Insurance* Coverage A - Buildings	Limit of Insurance* Coverage B - Business Personal Property	Seasonal Increase-Business Personal Property
001	6101 NW 2ND ST OKLAHOMA CITY OK 73127-6505	\$ 2,861,600	No Coverage	N/A

\* As of the effective date of this policy, the Limit of Insurance as shown includes any increase in the limit due to Inflation Coverage.

**SECTION I - INFLATION COVERAGE INDEX(ES)**

Cov A - Inflation Coverage Index: 205.6  
 Cov B - Consumer Price Index: N/A

**SECTION I - DEDUCTIBLES**

**Basic Deductible \$10,000**

**Special Deductibles:**

<b>Money and Securities</b>	<b>\$250</b>	<b>Equipment Breakdown</b>	<b>\$2,500</b>
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**Other deductibles may apply - refer to policy.**

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**DECLARATIONS (CONTINUED)**

**Businessowners Policy for HAYES, CLAYTON A II &**  
**Policy Number 96-BM-K570-0**

**SECTION I - EXTENSIONS OF COVERAGE - LIMIT OF INSURANCE - EACH DESCRIBED PREMISES**

The coverages and corresponding limits shown below apply separately to each described premises shown in these Declarations, unless indicated by "See Schedule." If a coverage does not have a corresponding limit shown below, but has "Included" indicated, please refer to that policy provision for an explanation of that coverage.

<b>COVERAGE</b>	<b>LIMIT OF INSURANCE</b>
Accounts Receivable	
On Premises	\$10,000
Off Premises	\$5,000
Arson Reward	\$5,000
Collapse	Included
Damage To Non-Owned Buildings From Theft, Burglary Or Robbery	Coverage B Limit
Debris Removal	25% of covered loss
Equipment Breakdown	Included
Fire Department Service Charge	\$2,500
Fire Extinguisher Systems Recharge Expense	\$5,000
Forgery Or Alteration	\$10,000
Glass Expenses	Included
Increased Cost Of Construction And Demolition Costs (applies only when buildings are insured on a replacement cost basis)	10%
Money And Securities (Off Premises)	\$2,000
Money And Securities (On Premises)	\$5,000
Money Orders And Counterfeit Money	\$1,000
Newly Acquired Business Personal Property (applies only if this policy provides Coverage B - Business Personal Property)	\$100,000
Newly Acquired Or Constructed Buildings (applies only if this policy provides Coverage A - Buildings)	\$250,000

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**DECLARATIONS (CONTINUED)**

**Businessowners Policy for HAYES, CLAYTON A II &**  
**Policy Number 98-BM-K570-0**

<b>Ordinance Or Law - Equipment Coverage</b>	<b>Included</b>
<b>Outdoor Property</b>	<b>\$5,000</b>
<b>Personal Effects (applies only to those premises provided Coverage B - Business Personal Property)</b>	<b>\$2,500</b>
<b>Personal Property Off Premises</b>	<b>\$15,000</b>
<b>Pollutant Clean Up And Removal</b>	<b>\$10,000</b>
<b>Preservation Of Property</b>	<b>30 Days</b>
<b>Property Of Others (applies only to those premises provided Coverage B - Business Personal Property)</b>	<b>\$2,500</b>
<b>Signs</b>	<b>\$2,500</b>
<b>Valuable Papers And Records</b>	
<b>On Premises</b>	<b>\$10,000</b>
<b>Off Premises</b>	<b>\$5,000</b>
<b>Water Damage, Other Liquids, Powder Or Molten Material Damage</b>	<b>Included</b>

**SECTION I - EXTENSIONS OF COVERAGE - LIMIT OF INSURANCE - PER POLICY**

The coverages and corresponding limits shown below are the most we will pay regardless of the number of described premises shown in these Declarations.

<b>COVERAGE</b>	<b>LIMIT OF INSURANCE</b>
<b>Loss Of Income And Extra Expense</b>	<b>Actual Loss Sustained - 12 Months</b>

**SECTION II - LIABILITY**

<b>COVERAGE</b>	<b>LIMIT OF INSURANCE</b>
<b>Coverage L - Business Liability</b>	<b>\$1,000,000</b>

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State Farm

**DECLARATIONS (CONTINUED)**

**Businessowners Policy for HAYES, CLAYTON A II &**  
**Policy Number 96-BM-K570-0**

Coverage M - Medical Expenses (Any One Person)	\$5,000
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Damage To Premises Rented To You	\$300,000
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**AGGREGATE LIMITS****LIMIT OF INSURANCE**

Products/Completed Operations Aggregate	\$2,000,000
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General Aggregate	\$2,000,000
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Each paid claim for Liability Coverage reduces the amount of insurance we provide during the applicable annual period. Please refer to Section II - Liability in the Coverage Form and any attached endorsements.

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Your policy consists of these Declarations, the BUSINESSOWNERS COVERAGE FORM shown below, and any other forms and endorsements that apply, including those shown below as well as those issued subsequent to the issuance of this policy.

**FORMS AND ENDORSEMENTS**

JMP-4100	Businessowners Coverage Form
CMP-4705	Loss of Income & Extra Expense
CMP-4236	Amendatory Endorsement
CMP-4709	Money and Securities
FE-6999.1	Terrorism Insurance Cov Notice
FD-6007	Inland Marine Attach Dec

**SCHEDULE OF ADDITIONAL INTERESTS**

Interest Type: Mortgagor

Endorsement #: N/A

Loan Number: N/A

WEOKIE CREDIT UNION  
 ITS SUCCESSORS AND/OR ASSIGNS  
 PO BOX 26090  
 OKLAHOMA CITY OK 73126-0090

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Page 5 of 6

**DECLARATIONS (CONTINUED)**

**Businessowners Policy for HAYES, CLAYTON A II &  
Policy Number 96-BM-K570-0**

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This policy is issued by the State Farm Fire and Casualty Company.

**Participating Policy**

You are entitled to participate in a distribution of the earnings of the company as determined by our Board of Directors in accordance with the Company's Articles of Incorporation, as amended.

In Witness Whereof, the State Farm Fire and Casualty Company has caused this policy to be signed by its President and Secretary at Bloomington, Illinois.

*Lynne M. Yankell*  
Secretary

*Edward R. Hart Jr.*  
President

**Note: For your protection, the law of your state requires the following to appear on this form: WARNING**. Any person who knowingly, and with intent to injure, defraud or deceive any insurer, makes any claim for the proceeds of an insurance policy containing any false, incomplete or misleading information is guilty of a felony.

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JUL 10 2013  
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**STATE FARM FIRE AND CASUALTY COMPANY**  
**A STOCK COMPANY WITH HOME OFFICES IN BLOOMINGTON, ILLINOIS**  
**10222 State Farm Boulevard**  
**Tulsa, OK 74146-5402**

**INLAND MARINE ATTACHING DECLARATIONS**

<b>Policy Number</b>	<b>96-BM-K570-0</b>
----------------------	---------------------

<b>Policy Period</b>	<b>Effective Date</b>	<b>Expiration Date</b>
12 Months	NOV 28 2012	NOV 28 2013
The policy period begins and ends at 12:01 am standard time at the premises location.		

S-26-1675-FC08 F U

**Named Insured**

HAYES, CLAYTON A II &  
 CHAD A & CHRISTOPHER D &  
 ISCH, HOLLY D; TRUSTEES OF  
 THE HAYES FAMILY TRUST  
 6101 NW 2ND ST  
 OKLAHOMA CITY OK 73127-6505

**ATTACHING INLAND MARINE**

**Automatic Renewal** - If the policy period is shown as 12 months, this policy will be renewed automatically subject to the premiums, rules and forms in effect for each succeeding policy period. If this policy is terminated, we will give you and the Mortgagee/Lienholder written notice in compliance with the policy provisions or as required by law.

**Annual Policy Premium**      **Included**

The above Premium Amount is included in the Policy Premium shown on the Declarations.

Your policy consists of these Declarations, the INLAND MARINE CONDITIONS shown below, and any other forms and endorsements that apply, including those shown below as well as those issued subsequent to the issuance of this policy.

**Forms, Options, and Endorsements**

FE-8743	Inland Marine Computer Prop
FE-8739	Inland Marine Conditions
FE-8256	Amendatory Endorsement

See Reverse for Schedule Page with Limits

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 FD-6007

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~~98-BM-K570-0~~**ATTACHING INLAND MARINE SCHEDULE PAGE****ATTACHING INLAND MARINE**

ENDORSEMENT NUMBER	COVERAGE	LIMIT OF INSURANCE	DEDUCTIBLE AMOUNT	ANNUAL PREMIUM
FE-8743	Inland Marine Computer Prop Loss of Income and Extra Expense	\$ 25,000 \$ 25,000	\$ 500	Included Included

**OTHER LIMITS AND EXCLUSIONS MAY APPLY - REFER TO YOUR POLICY**

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FD-6007

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State Farm : 96-BM-K570-0 014685

FE-8256  
Page 1 of 1

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.



**FE-8256 AMENDATORY ENDORSEMENT  
(Oklahoma)**

1. Paragraph 6. Appraisal is replaced by the following:

**6. Appraisal**

If we and you disagree on the value of the property or the amount of loss, either may make written demand for an appraisal of the loss. In this event, only the party which demanded the appraisal will be bound to the results of that appraisal.

Each party will select a competent and impartial appraiser and notify the other of the selected appraiser's identity within 20 days after receipt of the written demand for an appraisal. The two appraisers will select an umpire. If the appraisers cannot agree upon an umpire within 15 days, then, at the request of either you or us, and after notice of hearing to the non-requesting party by certified mail, selection of the umpire will be made by a judge of a district court in the county where the loss occurred.

The appraisers will state separately the value of the property and amount of loss. If the appraisers submit a written report of agreement to us, the amounts agreed upon will be the value of the property and the amount of loss and will be binding on the party which demanded the appraisal.

If they fail to agree, they will submit their differences to the umpire. A decision agreed to by any two will be binding on the party which demanded the appraisal.

Each party will:

- a. Pay its chosen appraiser; and
- b. Bear the other expenses of the appraisal and umpire equally.

If there is an appraisal, we will still retain our right to deny the claim.

2. Paragraph 14. Concealment, Misrepresentation Or Fraud is replaced by the following:

**14. Concealment, Misrepresentation Or Fraud**

This policy is voidable by us in any case of fraud by you as it relates to this policy at any time. It is also voidable by us if you or any other insured, at any time, intentionally conceal or misrepresent a material fact concerning:

- a. This policy;
- b. The covered property;
- c. Your interest in the covered property; or
- d. A claim under this policy.

All other policy provisions apply.

FE-8256

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November 25, 2013

Hayes Vending Co Inc  
6101 NW 2<sup>nd</sup> St.  
Oklahoma City, OK 73127-6505

23rd, 2013

State Farm Claims  
P.O. Box 2323  
Bloomington, IL 61702-2323

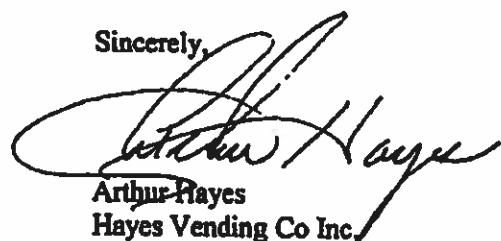
Re: Claim #: 36-22J3-702

To Whom It May Concern:

I am not in agreement with the amount of the loss. I demand an appraisal on my above referenced claim.

I select Scott Jones with S. L. Jones and Associates as my appraiser. Please name your appraiser in a timely manner. Your appraiser can contact Scott Jones at 405-388-4269.

Sincerely,



A handwritten signature in black ink, appearing to read "Arthur Hayes".

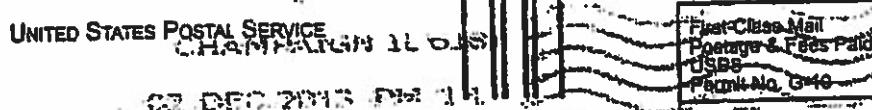
Arthur Hayes

Hayes Vending Co Inc,



<b>SENDER: COMPLETE THIS SECTION</b>		<b>COMPLETED BY MAILING FACILITY</b>	
<ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</li> <li><input checked="" type="checkbox"/> Print your name and address on the reverse so that we can return the card to you.</li> <li><input checked="" type="checkbox"/> Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul>		<p>A. Signature <i>Terry R. Riley</i></p> <p><input checked="" type="checkbox"/> Agent      <input type="checkbox"/> Address</p> <p>B. Received by (Printed Name) <i>Terry R. Riley</i></p> <p>C. Date of Delivery <i>02-27-03</i></p> <p>D. Is delivery address different from Item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input checked="" type="checkbox"/> No</p>	
<p>1. Article Addressed to: <b>State Farm Claims</b> <b>P.O. Box 2323</b> <b>Bloomington, IL 61702</b></p>		<p>2. Service Type  <input checked="" type="checkbox"/> Certified Mail      <input type="checkbox"/> Express Mail  <input type="checkbox"/> Registered      <input type="checkbox"/> Return Receipt for Merchandise  <input type="checkbox"/> Insured Mail      <input type="checkbox"/> C.O.D.</p>	
<p>3. Article Number (Insureation service label) <b>7011 1570 0002 9983 9837</b></p>		<p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>	

PS Form 3811, February 2004 Domestic Return Receipt 10295-024-1440



• Sender: Please print your name, address, and ZIP+4 in this box \*

Hages Vending Co. Inc  
16101 NW 2nd St.  
OKC, OK 73127-6505

